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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,153	02/14/2002	Joseph C. Mase	1417Y P 701	6931

7590 12/09/2003

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EXAMINER

KOYAMA, KUMIKO C

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	10/075,153	MASE ET AL.	
	Examiner	Art Unit	
	Kumiko C. Koyama	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Acknowledgement is made of receipt of Amendment filed on July 01, 2003.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada (US 5,237,164) in view of Heiden (US 6,408,286).

Re claim 1, 6 and 15: Takada teaches a bar code on a card substrate as shown in Fig 4 having a bright portion 28a that reflects light, serving as light-reflecting segments, and dark portions 28b formed by a printing process of black color having a light absorption property, serving as spaces defining light-absorbing segments (col 5 lines 38-55). The bright portion and dark portions define a negative image, as shown in Fig 4. Takada teaches a bar code reader 22 that is used to read out the bar code (col 6 lines 63+). A magnetic strip is positioned over the substrate (Fig 1) and the bar code may be positioned over the magnetic strip (Fig 2).

Takada fails to teach that the bar code represents fixed information and variable information. Takada also fails to teach that the fixed information remains unchanged for a first period of time while the variable information changes during the first period.

Heiden teaches a postal indicium 30 including both fixed data that does not change from postal indicium to postal indicium and variable data that may change from postal indicium to postal indicium (col 5 lines 12-20).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Heiden to the teachings of Takada and provide a bar code for each fixed data and variable data in order to provide an identification to the substrate so that data or information can be updated periodically to further describe the substrate, but also maintaining certain data or information to store the identity of the substrate.

Re claim 2: As shown in Fig 3 and Fig 4, the light-reflecting segments are indicia that can be detected by a reader (col 6 lines 63+).

3. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden as applied to claim 2 above, and further in view of Dolash et al (US 4,983,817). Takada as modified by Heiden have been discussed above.

Re claim 3 and 4: Takada as modified by Heiden fail to teach that the indicia is visible to the naked human eye. Takada as modified by Heiden also fails to teach that the indicia has a color selected from the group consisting of white, red, yellow, orange, gold and silver.

Dolash teaches bar codes with fluoresce orange-red (col 1 lines 55-57).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Dolash to the teachings of Takada as modified by Heiden so that the bar code can be visible and readable in a more accurate

manner when the bar code is on a white background because fluorescent ink provides a more distinctive reflection.

Re claim 5: Takada as modified by Heiden fails to teach that the indicia is not visible to the naked human eye.

Dolash teaches a bar code that is invisible to the unaided eye (col 10 lines 25-27).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Dolash to the teachings of Takada as modified by Heiden so that the bar code will not interrupt the visibility of other information that describes the substrate and only the bar code reader can interpret the bar code information.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden as applied to claim 1 above, and further in view of Blankenship et al (US 6,267,291). Takada as modified by Heiden have been discussed above.

Takada as modified by Heiden fail to teach that the fixed information is selected from the group consisting of product name, product manufacturer, Universal Product Code, Universal Product Number, National Drug Code, National Health Related Industry Code, and label copy data.

Blankenship teaches that the fixed information includes the product name (col 2 lines 8-16).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Blankenship to the teachings of Takada as modified by Heiden because the product name does not change

Art Unit: 2876

frequently, therefore can be stored permanently to identify the substrate or content within the substrate.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden as applied to claim 8 above, and further in view of Perra, Jr (US 4,559,872). Takada as modified by Heiden have been discussed above.

Takada as modified by Heiden fail to teach that the variable information is selected from the group consisting of lot number, batch number, expiration date, serial number, production time, price, inventory control data, and concentration.

Perra teaches that the variable information may also consist of a lot or batch number (col 1 lines 20-24).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Perra to the teachings of Takada as modified by Heiden because lot and batch number are changed or updated accordingly with content change, therefore it is important that it is stored as the variable information so that the user is notified of the content before utilizing it.

6. Claims 9-11, 14, 16-22, 25-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden as applied to claim 1 above, and further in view of Croft (US 5,893,459). Takada as modified by Heiden have been discussed above.

Re claim 9-11, 14, 16-22, 25-27 and 29-32: Takada as modified by Heiden fails to teach that the coding symbology is disposed on medical container.

Croft teaches a pouch like package for packaging items, such as individual does pain reliever, including sheets of transparent PVC plastic (col 1, lines 60+). The pouch has a bar code label attached thereto as shown in Fig. 3.

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Croft to the teachings of Takada as modified by Heiden in order to properly and specifically identify the content of the medical container so that the correction solution is given to the correct patient, which avoids any misplacement and misuse of the solution.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden and Croft as applied to claim 11 above, and further in view of Fujii et al (US 4,311,810). Takada/Heiden/Croft have been discussed above.

Takada/Heiden/Adolf fail to teach that the polyolefin is produced from an alpha-olefin having from about 2 to about 20 carbons and the alpha-olefin is ethylene or propylene.

Fujii teaches a propylene copolymer consisting of propylene and alpha-olefins of 5-12 carbons (col 2, lines 5-10). Fujii also teaches a pouch made out of the propylene copolymer (col 22, lines 62+).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Fujii to the teachings of Takada/Heiden/Croft in order provide a clear medical container so that the content of the container can be seen to confirm that the content matches the bar code information.

Art Unit: 2876

8. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden, and further in view of Berquist (US 4,884,904). Takada as modified by Heiden have been discussed above.

Takada as modified by Heiden fail to teach a method of transferring a negative image bar code onto a web of material including providing a web or material, printer, and a signal to a printer.

Berquist teaches a bar code printer for printing data on a web of material, the printer being a thermal print head type printer and inputting signal to the printer (col 1 line 9-12, col 4 lines 60-64).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Berquist to the teachings of Takada as modified by Heiden in order to print the bar code so that the bar code can be generated to store information and identify the item that the bar code is applied to, therefore providing a unique identification to quickly identify and obtain information about the item.

9. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takada as modified by Heiden and Croft as applied to claim 25 above, and further in view of Havens et al (US 5,319,182). Takada/Heiden/Croft have been discussed above.

Takada/Heiden/Adolf fails to teach that the material is positioned over a portion of the negative image bar code.

Havens teaches that during the lamination process an adhesive flows over the bar code symbol (col 2 lines 33-34).



Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Havens to the teachings of Takada/Heiden/Adolf in order to protect that the bar code symbol from being damaged, which avoids any misreading caused by scratches, tear, etc. and further avoids retrieving wrong information.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 9-14, 16-22 and 25-32 have been considered but are moot in view of the new ground(s) of rejection. The examiner has found new art that she believes is more relevant to the instant application.

11. Applicant's arguments filed July 01, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the Heiden reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the examiner believes that the Heiden reference is an analogous art because the Heiden reference relates to an indicia that represents information about an item, and similarly a bar code or any other kind of identification indicia also represents information about an item. Although bar code and postal indicia may have different appearances, they are both commonly known for being provided as a label or tag for an item such that human or machine may read the label and achieve the identity of the item.

Art Unit: 2876

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as indicated above, both Takada and Heiden references teaches an indicia for identifying an item. Takada teaches bar codes having information encoded therein by means of bars and spaces. Such bar codes may be utilized as a company ID for storing information such as employee's name, employee number and employee's position. Heiden's postal indicium also stores information regarding the item, such as mailing date, post office zip code and postage amount. The examiner combines these two references by taking Takeda's specific bar code structure and Heiden's idea of having both fixed and variable information on an indicia for rejection. Therefore, such common aspects about the two references lead the examiner to combine and render the claims obvious.

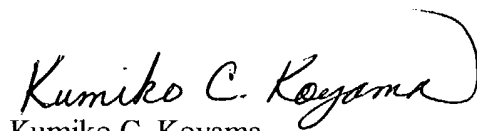
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 703-305-5425. The examiner can normally be reached on Monday-Friday 7am-3:30pm.

Art Unit: 2876

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Kumiko C. Koyama  
December 01, 2003



**DIANE I. LEE**  
**PRIMARY EXAMINER**